

ORDINANCE NO. 2015-04

**AN ORDINANCE OF THE VILLAGE COMMISSION
OF THE VILLAGE OF BISCAYNE PARK, FLORIDA
AMENDING SECTION 5.3.4 OF THE LAND
DEVELOPMENT CODE ENTITLED "OBJECTS IN
THE RIGHT-OF-WAY" TO PROVIDE
REGULATIONS PERTAINING TO THE SWALE
AREA; AMENDING SECTION 5.6 OF THE LAND
DEVELOPMENT CODE ENTITLED "OFF-STREET
PARKING" TO PROVIDE REGULATIONS
PERTAINING TO OFF-STREET PARKING;
PROVIDING FOR CONFLICTS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, at the direction of the Village Commission, the Code Review Board reviewed Chapter 5 entitled "Transportation" of the Land Development Code; and

WHEREAS, numerous meetings and workshops were held to discuss the proposed changes to Chapter 5 of the Land Development Code; and

WHEREAS, the Village Commission finds it in the best interests of the Village to amend Sections 5.3.4 addressing objects in the right-of-way and swale area and to amend Section 5.6 addressing off-street parking and to approve this ordinance, authorizing the LDC to be amended;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF
THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Section 5.3.4 of the Village of Biscayne Park Land Development Code, entitled "Objects in the right-of-way", shall be amended to read as follows:

5.3.4 Landscaping and ~~O~~bjects in the swale area of the right-of-way.

1
2 (a) Markers. Dome type markers only may be placed within dedicated right-of-way
3 provided that they are placed not closer than eighteen (18) inches to the nearest edge of the
4 paved surface of the designated roadway. All markers must be at least twenty-four (24) inches
5 apart. Markers placed in the right-of-way shall not exceed twelve (12) inches in diameter nor be
6 more than six (6) inches in height and shall be white in color.

7
8 (b) Landscaping. Nothing shall be planted or allowed to grow in such a manner so as
9 to obstruct the right-of-way clear zone at a level between three (3) feet and six (6) feet above the
10 grade, measured at the centerline of right-of-way. Trees or palms, however, having trunks and
11 foliage trimmed in such a manner that no branches or foliage extend into the right-of-way area
12 clear zone shall be allowed, provided they are so located so as not to create a traffic hazard.

13 (c) Paving and drainage. Pervious pavers shall be allowed but any impervious paving
14 shall be adequately drained to prevent the buildup of stormwater in the right-of-way.

15
16 (d) Other objects prohibited. It shall be unlawful to install, place or maintain within
17 the dedicated right-of-way, parking or swale area of the village any pointed concrete or other
18 unapproved hard materials, such as rocks, stones, bricks, metal objects or other similar
19 obstructions.

20
21 (e) A combination of an approved parking approach and sodding of rights-of-way
22 shall be permitted provided the impervious section does not exceed forty (40) percent of the total
23 area and such paved areas shall be kept in good condition.

24
25 (f) Removal of obstructions by the Village: In the event any object or tree placed in
26 the swale creates an emergency situation involving potential danger to the health, safety, and
27 welfare of the community, the Village may perform removal operations immediately, thus
28 eliminating the emergency, and may assess the cost of such removal against the adjacent
29 property owner.

30
31 (g) Removal of trees in the swale by the abutting property owner: Property owners
32 must obtain a permit from the Village and Miami-Dade County to remove trees in the swale.

33
34 (h) Property owner/resident responsibilities for maintenance: The property owner or
35 resident living in the property shall be jointly and severally responsible for the maintenance of
36 the swale area contiguous to their property. Maintenance shall include but not be limited to
37 mowing the sod and performing general edging, weeding, trimming, pruning and cleanup
38 activities. The landscaping and sod shall be maintained in good plant health. The landscaping
39 shall be kept free of dead limbs and branches. No swale landscaping shall be maintained in such
40 manner as to constitute a nuisance.

41
42 (i) Property owners shall be responsible for the maintenance of the swale area
43 contiguous to their property as well as for the removal and costs of dead, diseased and/or fallen
44 trees and any trees that may interfere with the right-of-way or otherwise pose a danger to the
45 health, safety and welfare of the community.

Section 3. Section 5.6 of the Village of Biscayne Park Code of Ordinances, entitled "Off-street parking", shall be amended to read as follows:

5.6. Off-street parking.

5.6.1 *Applicability.* Off-street parking facilities shall be provided ~~for within each property development within~~ in the village pursuant to the requirements of this code. The facilities shall be maintained as long as the use exists that the facilities were designed to serve.

(a) All vehicles must be parked on an approved parking surface subject to the design standards set forth in Section 5.6.8.

1. Non-conforming residential properties that do not have an approved parking surface, including an approved approach, shall have one (1) year from the date of enactment of this ordinance to have the compliant parking surface permitted and installed.
2. Existing non-conforming parking surfaces permitted by the Village may remain unless a substantial portion, fifty (50) percent or greater, requires repair or an addition to the parking surface occurs.
3. When an approved parking surface exists, all vehicles shall park on said approved parking surface effective upon enactment of this ordinance.

5.6.2 *Computation.* In the village hall, recreation area, church, the occupancy shall be based on the maximum capacity rating given the building by the fire marshal. Gross floor area shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

5.6.3 *Number of parking spaces required.* The table below specifies the required minimum number of off-street parking spaces. The number of off-street ~~automobile~~ parking spaces for uses not listed in the table shall be determined by the planning board. The term "tandem parking space" means a parking space that abuts a second parking space in such a manner that vehicular access to the second space can be made only through the abutting (tandem) space.

TABLE INSET:

| Use | | Minimum Off-Street Parking Requirement | |
|-----|----------------------|--|-----------------|
| (a) | Residential | Resident Parking | Visitor Parking |
| | Detached one-family: | | |
| | 1, 2 and 3 bedrooms | 2 spaces/unit* | 1 space/unit** |
| | 4 bedrooms | 3 spaces/unit* | 1 space/unit** |

| | | | |
|-----|---|----------------|-------------------|
| | Detached two-family <u>Duplexes/attached and detached:</u> | | |
| | 1, 2, 3 or more bedrooms | 2 spaces/unit* | 0.5 spaces/unit** |
| (b) | Recreation <u>area</u> . | | |
| | Parks, Clubs: <u>determined</u> by the planning board. | | |
| (c) | Public assembly/ <u>service Church</u> | | |
| | 1 space/3 seats or 1 space/35 square feet of gross auditorium floor area | | |
| (d) | <u>Government buildings: 1 space/300 square feet of gross floor area</u> | | |

* Resident parking spaces may be tandem.

** If on-street parking is not permitted or is restricted on the unit's street frontage, then one visitor parking space shall be required. The visitor space shall be located not more than one hundred (100) feet from the unit's street frontage.

5.6.4 *Handicapped parking spaces.* Any parking area to be used by the general public shall provide suitable, marked and paved parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of F.S. §§ 316.1955, and 316.1956, or succeeding provisions. No parking spaces required for the handicapped shall be counted as a parking space in determining compliance with subsection 5.6.3, public uses, above, but ~~optional~~ supplemental spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby incorporated by reference into the village code.

5.6.5 *Parking in medians prohibited.* No parking shall be allowed in median open spaces or median parkways.

5.6.6 *Existing nonconforming minimum off-street parking requirements.* The number of off-~~street~~ parking spaces existing on properties at the time of the adoption of this code, although such number does not conform to the minimum off-street parking requirements hereof, may be lawfully continued. However, all vehicles must be parked on an approved parking surface consistent with Section 5.6.1.

5.6.7 *Historic preservation exemption.* The preservation of any property that has been placed on the county or national register of historic places, shall be grounds for a grant by the planning review board of a reduction in, or complete exemption from, the parking requirements in subsection 5.6.3 of this chapter.

5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street parking spaces and the use they are intended to serve shall be located on the same parcel. The

1 size and layout of these spaces shall be according to the Miami-Dade County Code and Public
2 Works Manual, Metro Miami-Dade County. Vehicles shall be parked on impervious or pervious
3 surfaces but impervious areas shall not exceed forty (40) percent of the front yard, excluding the
4 right-of-way. Off-street parking (within the lot lines of all properties) shall only be permitted on
5 approved surfaces by the Village of Biscayne Park. In no circumstances shall grass or sod be an
6 approved surface.

- 7
- 8 a. All parking surfaces shall be of approved materials except as otherwise provided
9 below.
- 10
- 11 b. All parking surfaces must have an improved approach across the swale which
12 shall meet the minimum standard of gravel construction.
- 13
- 14 c. All parking surfaces shall be no closer than thirty (30) inches from side property
15 line unless exempted below in subsection (d).
- 16
- 17 d. All non-conforming parking surfaces, as related to setback, shall come into
18 compliance when there is a change in parking surface material or the installation
19 of a new parking surface. If a determination is made by the Village Manager or
20 designee that adhering to the setback would make the parking surface non-
21 functional, the Village Manager may waive this requirement in writing.
- 22
- 23 e. Parking surfaces shall only be constructed with the following materials; concrete,
24 paver, brick, gravel, asphalt, cut stone or turf block.
- 25
- 26 f. Gravel parking surfaces shall be built with a permanent perimeter border
27 consisting of suitable material as approved by Village staff a minimum of four (4)
28 inches deep with the width of the border being sixteen inches (16") immediately
29 adjacent to the road perimeter and four inches (4") along the entire length of both
30 edges of the parking surface.
- 31

32 Construction of a portion of a parking surface in the swale or right-of-way, such as the apron and
33 parking surface approach, shall require the property owner to indemnify, hold harmless, and
34 defend the Village from any and all actions, caused by, resulting from, or in any way associated
35 with the proposed work within the Village right-of-way on a form provided by the Village.

36

37 **Section 4. Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts
38 thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

39

40 **Section 5. Severability.** The provisions of this Ordinance are declared to be
41 severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason
42 be held to be invalid or unconstitutional, such decision shall not affect the validity of the
43 remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in

1 effect, it being the legislative intent that this Ordinance shall stand notwithstanding the
2 invalidity of any part.

3
4 **Section 6. Codification.** It is the intention of the Village Commission of the Village of
5 Biscayne Park, that the provisions of this Ordinance shall become and made a part of the Code
6 of Ordinances of the Village of Biscayne Park, Florida, and that the Sections of this Ordinance
7 may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section,"
8 "Article" or other word or phrase in order to accomplish such intention.

9
10 **Section 7. Effective Date.** This Ordinance shall be effective upon adoption on
11 second reading.

12
13 The foregoing Ordinance was offered by Vice Mayor Anderson, who moved its adoption. The
14 motion was seconded by Commissioner Ross and upon being put to a vote, the vote was as
15 follows:

16 PASSED AND ADOPTED upon first reading this 4th day of August, 2015.

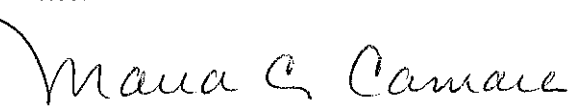
17 PASSED AND ADOPTED upon second reading this 1st day of September, 2015.

18 The foregoing ordinance upon being put to a
19 vote, the vote was as follows:

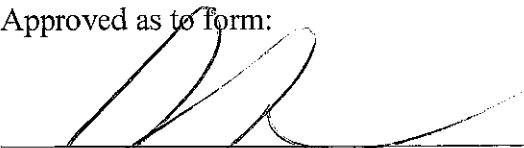
20 
21 _____
22 David Coviello, Mayor

23 Mayor Coviello: Yes
24 Vice Mayor Anderson: Yes
25 Commissioner Jonas: Yes
26 Commissioner Ross: Yes
27 Commissioner Watts: No

28 Attest:

29 
30 _____
31 Maria C. Camara, Village Clerk

32 Approved as to form:

33 
34 _____
35 John J. Hearn, Village Attorney